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MEMO ENDORSED

In Catsimatidis - to attend tomorrow's settlement conference.

SO ORDERED:

September 18, 2013

Andrew Jay Peck
United States Magistrate Judge

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By Facsimile (212) 805-7933
Honorable Andrew J. Peck
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street, Room 735
New York, NY 10007

BY FAX

BY ECF

Re: Torres v. Gristede's Operating Corp., No. 04 Civ. 3316 (PAC) (AJP)

Dear Judge Peck:

We are Class Counsel in the above-referenced matter. This afternoon, Defendants informed us that four lawyers will attend tomorrow's settlement conference and that John Catsimatidis, the 100% owner, president, and CEO of Gristede's, will not be present. In our experience in over nine years of litigation, including a prior mediation of fees and costs, Mr. Catsimatidis is the only person in the Gristede's organization with settlement authority. As Judge Crotty put it, "it is pellucidly clear that [Mr. Catsimatidis] is the one person who is in charge of the corporate defendant." *Torres v. Gristede's Operating Corp.*, No. 04 Civ. 3316, 2011 WL 4571792, at *8 (S.D.N.Y. Sept. 9, 2011). We believe settlement cannot be reached without Mr. Catsimatidis and request that the Court require him to attend, or in the alternative, require him to attend any subsequent settlement conferences, if tomorrow's conference is unsuccessful.

We would have brought this to the Court's attention sooner had Defendants complied with the August 22, 2013 Order for Settlement Conference, Dkt. 480.

We appreciate the Court's consideration of this request.

Respectfully submitted,

Molly Brooks
Molly A. Brooks

TRANSCRIPTION:

Mr. Catsimatidis is to attend tomorrow's settlement conference.

**Copies Fax & ECF: All Counsel
Judge Crotty**

Honorable Andrew J. Peck
September 18, 2013
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cc: Nicholas C. Katsoris, Esq. (via email)
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